

# HOUSE JOURNAL

---

SEVENTY-EIGHTH LEGISLATURE, THIRD CALLED SESSION

---

## PROCEEDINGS

FIRST DAY — MONDAY, SEPTEMBER 15, 2003

In obedience of the proclamation of His Excellency, Rick Perry, Governor of the State of Texas, convening the 78th Legislature, Third Called Session, to meet in special session at Austin, Texas, the seat of government, on this the 15th day of September 2003, the members of the House of Representatives assembled in the hall of the House of Representatives, and at 12 p.m. the house was called to order by the Honorable Tom Craddick, speaker.

The roll of the house was called and a quorum was announced present (Record 1).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Absent, Excused — Baxter; Hardcastle; Riddle; Solomons.

Absent — Crabb; Wilson.

The invocation was offered by Father Timothy V. Vaverek, pastor, St. Joseph's Catholic Church, Waco, as follows:

Lord God, we ask you to bless these gathered representatives of the people of Texas as they commence a special session of the state legislature. They have before them weighty matters—matters that have always had a profound impact on the citizens of this state, on our elected representatives, and on our political parties.

We ask you then to grant the members of this house the gifts of wisdom and magnanimity: that their disagreements may be evidence that without civility, meaningful political debate becomes impossible; that their deliberations may consider the needs of the majority and the minority in a manner worthy our democracy; and that their determinations may prove genuinely beneficial to the people and communities they represent.

We also ask you to bless Texas and its people, at home or abroad, especially the sick, the hungry, the abandoned, and those who are in harm's way this day on our behalf.

We ask these blessings in your name, who lives and reigns forever and ever. Amen.

### **LEAVES OF ABSENCE GRANTED**

The following member was granted leave of absence for today because of personal business:

Baxter on motion of Kuempel.

The following member was granted leave of absence for today because of a death in the family:

Riddle on motion of Kuempel.

The following member was granted leave of absence for today and the remainder of the week because of illness:

Solomons on motion of Kuempel.

The following member was granted leave of absence for today because of family business:

Hardcastle on motion of Hope.

### **PROCLAMATION BY THE GOVERNOR OF THE STATE OF TEXAS**

The speaker laid before the house and had read the following proclamation by the governor:

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, federal law requires state legislatures to redraw congressional district lines after each decennial census; and

WHEREAS, the Texas legislature has not drawn new district lines to reflect the changes in Texas population since the results of the last census were released; and

WHEREAS, the people have placed the power to call and convene the legislature into special session in the hands of the Chief Executive Office of the State; and

WHEREAS, there are other issues of importance to the state that require the attention of the legislature;

NOW, THEREFORE, I, RICK PERRY, GOVERNOR OF THE STATE OF TEXAS, by the authority vested in me by Article IV, Section 8, of the Texas Constitution, do hereby call an extraordinary session of the 78th Legislature, to be convened in the city of Austin, commencing at noon on Monday the 15th day of September 2003, for the following purposes:

To consider legislation relating to congressional redistricting.

To consider legislation relating to state fiscal management, including adjustments to certain school district fiscal matters made necessary by recent changes in state fiscal management; making related appropriations.

To consider legislation relating to the dates of certain elections, the procedures for canvassing the ballots for an election, and the counting of certain ballots voted by mail.

To consider legislation modifying the filing period and related election dates for the primary elections in Texas.

To consider legislation relating to the financing, construction, improvement, maintenance, and operation of toll facilities by the Texas Department of Transportation and the disposition of money generated by the driver responsibility program, fines imposed for certain traffic offenses, and certain fees collected by the Department of Public Safety of the State of Texas; making an appropriation.

To consider legislation relating to the reorganization of, efficiency in, and other reform measures applying to state government.

To consider legislation appropriating fees established by legislation from the 78th Regular Session of the Texas Legislature that remain unappropriated. This matter shall be strictly construed to only include fees that were established during that session of the legislature.

Legislation relating to making an appropriation for the purpose of returning to a fund outside of the state treasury cash that was transferred from the fund to the general revenue fund.

The Secretary of State will take notice of this action and will notify the members of the Legislature.

IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of the State to be affixed at my Office in the City of Austin, Texas, this the 9th day of September 2003.

Rick Perry  
Governor of Texas

(SEAL)  
Geoffrey S. Connor  
Secretary of State

**MESSAGE FROM THE GOVERNOR  
OF THE STATE OF TEXAS**

The speaker laid before the house and had read the following message from the governor:

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE SEVENTY-EIGHTH TEXAS LEGISLATURE, THIRD CALLED SESSION:

WHEREAS, the people of Texas through their state Constitution have placed the power to call the legislature into special session in the hands of the Chief Executive Officer of the State; and

WHEREAS, the members of the Seventy-Eighth Texas Legislature, Third Called Session, have now convened to consider items presented to them by the Governor;

NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following additional matter to the Seventy-Eighth Texas Legislature, Third Called Session for consideration:

Legislation restructuring the membership of the electric utility legislative oversight committee.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 15th day of September 2003.

Rick Perry  
Governor of Texas

(SEAL)  
Geoffrey S. Connor  
Secretary of State

(Woolley in the chair)

**BILLS AND JOINT RESOLUTIONS ON FIRST READING  
AND REFERRAL TO COMMITTEES  
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Crabb and Wilson now present)

(Speaker in the chair)

**LEAVES OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of illness in the family:

Dawson on motion of Wong.

The following member was granted leave of absence for the remainder of today because of important business:

Thompson on motion of Nixon.

### **COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

Appropriations, upon recess today, Desk 72, for a formal meeting, to consider **HB 23, HB 24, HB 25, HB 28, HB 29, and HB 31.**

Regulated Industries, upon recess today, Desk 82, for a formal meeting, to consider **HB 35** and pending business.

Elections, upon recess today, Desk 58, for a formal meeting, to consider **HB 1.**

Government Reform, upon recess today, Desk 108, for a formal meeting, to consider **HB 7** and other matters.

Transportation, upon recess today, Desk 46, for a formal meeting, to consider legislation before the committee.

Redistricting, upon recess today, Desk 62, for a formal meeting, to consider **HB 3, HR 43,** and other measures before the committee.

Calendars, 1:45 p.m. today, speakers committee room, for a formal meeting.

Environmental Regulation, upon recess today, Desk 3, for a formal meeting, to consider measures before the committee.

### **RECESS**

Representative Keel moved that the house recess until 2 p.m. tomorrow in memory of James A. Holly of Hallettsville.

The motion prevailed without objection.

The house accordingly, at 1:00 p.m., recessed until 2 p.m. tomorrow.

---

### **ADDENDUM**

---

### **REFERRED TO COMMITTEES**

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

**List No. 1**

**HB 1** (By Denny), Relating to the dates of certain elections, the procedures for canvassing the ballots for an election, and the counting of certain ballots voted by mail.

To Elections.

**HB 2** (By Krusee), Relating to the construction, acquisition, financing, maintenance, management, operation, ownership, and control of transportation facilities and the progress, improvement, policing, and safety of transportation in the state; making appropriations.

To Transportation.

**HB 3** (By Crabb and King), Relating to the composition of the districts for the election of members of the United States House of Representatives from the State of Texas.

To Redistricting.

**HB 4** (By Naishtat), Relating to benefits for certain mental health services provided under the state child health plan.

To Public Health.

**HB 5** (By Naishtat), Relating to services provided by podiatrists under the Medicaid program.

To Public Health.

**HB 6** (By Naishtat), Relating to services provided by certain mental health professionals under the Medicaid program.

To Public Health.

**HB 7** (By Swinford, Allen, Callegari, and Casteel), Relating to the reorganization of, efficiency in, and other reform measures applying to state government.

To Government Reform.

**HB 8** (By Swinford), Relating to unclaimed property.

To Government Reform.

**HB 9** (By Swinford), Relating to certain environmental reports.

To Government Reform.

**HB 10** (By Swinford), Relating to meetings of the Legislative Budget Board conducted through the use of certain telecommunication devices.

To Government Reform.

**HB 11** (By Swinford), Relating to the abolition of the Texas Commission on Private Security and the transfer of its functions to the Department of Public Safety of the State of Texas and the Texas Department of Health.

To Government Reform.

**HB 12** (By Swinford), Relating to designating the presiding officer of the governing body of certain state agencies.

To Government Reform.

**HB 13** (By Swinford), Relating to the oversight of regional planning commissions by the governor and the state auditor.

To Government Reform.

**HB 14** (By Swinford), Relating to the administration of certain legislative agencies.

To Government Reform.

**HB 15** (By Swinford), Relating to fuel savings for state agencies.

To Government Reform.

**HB 16** (By Swinford), Relating to financing certain capital expenditures of state agencies with savings from utility cost savings contracts.

To Government Reform.

**HB 17** (By Swinford), Relating to permitting procedures of the Texas Commission on Environmental Quality.

To Government Reform.

**HB 18** (By Swinford), Relating to the abandonment of proceeds from the demutualization of an insurance company.

To Government Reform.

**HB 19** (By Swinford), Relating to certain governmental benefit plans.

To Government Reform.

**HB 20** (By Swinford), Relating to the governor's budget authority and to the payment of certain tax refunds.

To Government Reform.

**HB 21** (By Swinford), Relating to the qualifications of the commissioner of insurance.

To Government Reform.

**HB 22** (By Capelo), Relating to the right to refuse certain immunizations.

To Public Health.

**HB 23** (By Capelo), Relating to appropriating the fees relating to the office of patient protection collected by certain licensing agencies for the Health Professions Council under Chapter 305 (**HB 2985**), Acts of the 78th Legislature, Regular Session, 2003.

To Appropriations.

**HB 24** (By Heflin), Relating to appropriating the fees relating to the licensing and regulation of certain electricians collected by the Texas Department of Licensing and Regulation or the Texas Commission of Licensing and Regulation under **HB 1487**, Acts of the 78th Legislature, Regular Session, 2003.

To Appropriations.

**HB 25** (By Heflin), Relating to appropriating the fees collected by the Texas Animal Health Commission under **HB 2328**, Acts of the 78th Legislature, Regular Session, 2003.

To Appropriations.

**HB 26** (By Heflin), Relating to making an appropriation for the purpose of returning to a fund outside the state treasury cash that was transferred from the fund to the general revenue fund.

To Appropriations.

**HB 27** (By Puente), Relating to the reapportionment of state legislative, congressional, and judicial districts and the creation, function, and duties of the Texas Redistricting Commission.

To State Affairs.

**HB 28** (By McCall), Relating to state fiscal management; making related appropriations.

To Appropriations.

**HB 29** (By Luna), Relating to appropriating amounts received from the increase in the amount of lobby registration fees under Chapter 249, Acts of the 78th Legislature, Regular Session, 2003.

To Appropriations.

**HB 30** (By Allen), Relating to the organization and duties of the Board of Pardons and Paroles.

To Government Reform.

**HB 31** (By Pitts), Relating to certain provisions regarding teachers, retired teachers, and education.

To Appropriations.

**HB 32** (By Pitts), Relating to certain public school textbooks.

To Public Education.

**HB 33** (By Pitts), Relating to the imposition of a lien on property to recover certain medical assistance.

To Appropriations.

**HB 34** (By Solis), Relating to making an appropriation to the University of Texas Health Science Center at San Antonio for the purpose of supporting the Regional Academic Health Center and the Laredo Extension Campus, and making an appropriation to the University of Texas Health Science Center at Houston for the purpose of completing building construction of the Regional Academic Health Center at the University of Texas School of Public Health at the Brownsville Regional Campus.

To Appropriations.

**HB 35** (By King), Relating to the membership of the electric utility restructuring legislative oversight committee.

To Regulated Industries.

**HB 36** (By W. Smith), Relating to compliance histories for and incentives to reward compliance performance by entities regulated by the Texas Commission on Environmental Quality.

To Environmental Regulation.



**HB 37** (By Bonnen), Relating to contracts and grant programs related to the Texas Emissions Reduction Plan.

To Environmental Regulation.

**HB 38** (By McReynolds), Relating to the counties eligible to create a county assistance district that may impose a sales and use tax.

To Local Government Ways and Means.

**HB 39** (By McReynolds, Callegari, Eissler, B. Cook, and Truitt), Relating to the filing of personal financial disclosure statements by members of the boards of trustees of school districts.

To Elections.

**HJR 1** (By Puente), Proposing a constitutional amendment establishing the Texas Redistricting Commission to establish legislative and congressional districts and revising constitutional redistricting procedures.

To State Affairs.

**HJR 2** (By McReynolds), Proposing a constitutional amendment clarifying that the legislature may provide in a general appropriations bill that appropriations are automatically reduced to the extent necessary to stay within the estimated available revenue.

To Appropriations.

**HR 1** (By Mabry), In memory of Vicki Lynn Mitchell of Lorena.

To Rules and Resolutions.

**HR 2** (By Mabry), Congratulating Joshua Koontz of Lorena for earning the rank of Eagle Scout.

To Rules and Resolutions.

**HR 3** (By Mabry), Congratulating John Smith of Lorena for earning the rank of Eagle Scout.

To Rules and Resolutions.

**HR 4** (By Mabry), Congratulating William Brett Batchelor of Lorena for earning the rank of Eagle Scout.

To Rules and Resolutions.

**HR 5** (By Mabry), Congratulating Taylor W. Brackeen of Lorena for earning the rank of Eagle Scout.

To Rules and Resolutions.

**HR 6** (By Mabry), Congratulating Tyler W. Brackeen of Lorena for earning the rank of Eagle Scout.

To Rules and Resolutions.

**HR 7** (By Mabry), Honoring West Bank & Trust as the West Chamber of Commerce's 2003 Business of the Year.

To Rules and Resolutions.

**HR 8** (By Mabry), Honoring Audra Cernosek of West as a West Chamber of Commerce 2003 Student of the Year.

To Rules and Resolutions.

**HR 9** (By Mabry), Honoring Andrew Bajer of West on his selection as a 2003 Student of the Year by the West Chamber of Commerce.

To Rules and Resolutions.

**HR 10** (By Mabry), Honoring Robert and Mary Zahirniak on being named West's 2003 Citizens of the Year.

To Rules and Resolutions.

**HR 11** (By Hughes), Honoring Chief James Whittiker on his retirement from the Winnsboro Police Department.

To Rules and Resolutions.

**HR 12** (By Hughes), Honoring Richard and Billie Stevenson of Mineola on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 13** (By Harper-Brown), Commending the success of the Flowserve Corporation.

To Rules and Resolutions.

**HR 14** (By Craddick), Honoring Bobbie and Joan Cox of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 15** (By Craddick), Honoring Pat and Juanita Swihart of Midland on their 50th anniversary.

To Rules and Resolutions.

**HR 16** (By Craddick), Honoring Aurelio "Rudy" Rivas of Amarillo on his retirement from the Texas Department of Criminal Justice.

To Rules and Resolutions.

**HR 17** (By Craddick), Honoring Ray and Jane Blackwell of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 18** (By Craddick), Honoring Homer and Dorothy Nance of Midland on their 60th wedding anniversary.

To Rules and Resolutions.

**HR 19** (By Craddick), Honoring Charles and Melba Erck of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 20** (By Craddick), Honoring R. E. and Jeanette McDonald of Midland on their 60th wedding anniversary.

To Rules and Resolutions.

**HR 21** (By Craddick), Honoring Reverend Caleph and Minnie Swindell of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 22** (By Craddick), Honoring Hershel and Faye Floyd of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 23** (By Craddick), Honoring the Tabernacle Baptist Church in Crane on its 70th anniversary.

To Rules and Resolutions.

**HR 24** (By Craddick), Honoring Don and Dorris Miller of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 25** (By Craddick), Honoring Billy and Gloria Evans of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 26** (By Craddick), Honoring John and Mary Tomlinson of Midland on their 60th wedding anniversary.

To Rules and Resolutions.

**HR 27** (By Craddick), Honoring Bill and Donna Morrison of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 28** (By Craddick), Honoring Don and Barbara Bizzell of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 29** (By Guillen), Honoring Starr County Memorial Hospital for its service to the community.

To Rules and Resolutions.

**HR 30** (By Guillen), Honoring Florence J. Scott Elementary School in Roma on receiving an "exemplary" rating from the Texas Education Agency.

To Rules and Resolutions.

**HR 31** (By Guillen), Honoring the Rio Grande City Consolidated Independent School District on its students' success in the Odyssey of the mind competition.

To Rules and Resolutions.

**HR 32** (By Guillen), Honoring Dr. Blanca "Rosie" Garcia of Corpus Christi on her appointment to the Texas Board of Nurse Examiners.

To Rules and Resolutions.

**HR 33** (By Guillen), Commending Ramirez Elementary School on being rated "exemplary" by the Texas Education Agency for the 2002-2003 school year.

To Rules and Resolutions.

**HR 34** (By Mercer), Honoring Giovanna Reed of San Antonio for winning a national poster contest in support of worldwide refugees.

To Rules and Resolutions.

**HR 35** (By Mercer), Congratulating John Kelly on his retirement from the Texas Department of Transportation.

To Rules and Resolutions.

**HR 36** (By Mercer), Honoring Craig Rendon of San Antonio for his contributions as a geography teacher.

To Rules and Resolutions.

**HR 37** (By Goolsby), Honoring Jim Burnett of Dallas for his contributions to Texas families.

To Rules and Resolutions.

**HR 38** (By Goolsby), Honoring William E. Sleeper on the completion of his tenure as president of the Independent Insurance Agents of Dallas.

To Rules and Resolutions.

**HR 43** (By Crabb and King), Including congressional redistricting testimony, debate, remarks, and other information from previous sessions in the legislative history of **HB 3**.

To Redistricting.